

**Speech-Language Pathology and Audiology Board**

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**STATE OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD**

Medical Board of California  
1424 Howe Avenue  
Greg Gorges Conference Room "F"  
Sacramento, CA 95825  
(916) 263-2666

**FULL BOARD MEETING MINUTES  
OCTOBER 27 & 28, 2005**

**Board Members Present**

Lisa O'Connor, M.A., Chairperson  
Marcia Raggio, Ph.D.  
Rebecca Bingea, M.A.  
Alison Grimes, Au.D.  
Jennifer Hancock, M.A.  
Carol Murphy, M.A.

**Staff Present**

Annemarie Del Mugnaio, Executive Officer  
Candace Raney, Staff Analyst  
Lori Pinson, Staff Analyst  
George Ritter, Legal Counsel

**Board Members Absent**

Paul Donald, M.D.  
Diana Verdugo, M.S.

**Guests Present**

John DeCure, Deputy Attorney General, Office of the Attorney General  
Robert Ivory, Audiologist California Academy of Audiology  
Robert Powell, California Speech-Language-Hearing Association  
Patti Solomon-Rice, Patti Solomon-Rice, M.A. and Associates  
Jo Ann Janhunen, American Speech-Language-Hearing Association  
Ellen C. Fagan, American Speech-Language-Hearing Association  
Jean Piette, JP Educational Services  
Gayle E. Hicks, Neurodynamics, Inc.  
Richard Ikeda, Health For All

## **I. Call to Order**

Chairperson O'Connor called the meeting to order at 4:15 p.m.

## **II. Introductions**

Those present introduced themselves.

## **III. Approval of meeting minutes for August 18-19, 2005 Committee Meeting and Full Board Meeting**

The Board discussed minor grammatical edits to the minutes.

M/S/C: Grimes/Murphy

The Board approved the August 18 & 19, 2005 Committee Meeting and Full Board Meeting minutes as amended.

## **IV. Overview of Administrative Disciplinary Process (Legal Counsel, George Ritter)**

Mr. Ritter provided an overview of the administrative disciplinary process for the Board.

## **THE BOARD CONVENED IN CLOSED SESSION**

### **V. Closed Session (pursuant to Government Code Subsections 11126 (a)(1) (c)(3) Proposed Decisions/Stipulations/ Other APA Enforcement Actions**

#### **A. Proposed Stipulated Settlement and Disciplinary Order In the Matter of the Accusation Against Richard Vernon Webster, SP 496**

## **THE BOARD RECONVENED IN OPEN SESSION**

### **VI. Chairperson's Report (Lisa O'Connor) Report on the 2005 Conference of the National Council of State Boards (NCSB) of Examiners for Speech-Language Pathology & Audiology held October 20-22, 2005 in Cincinnati, Ohio.**

Ms. O'Connor distributed a written report on the issues addressed at the 2005 NCSB Conference and commented that the state exchange was incredibly valuable. She stated that issues discussed included: adjudication of enforcement cases, development of disciplinary guidelines, encroachment issues, balance assessments performed by hearing aid dispensers, the transition of audiology to the Doctor of Audiology Degree (AuD), and continuing education. Ms. O'Connor stated that she learned that four states (Indiana, New Mexico, Ohio, and Oklahoma) are changing their licensing laws to require the AuD as the entry-level licensing requirement. Ms. O'Connor reported that a lengthy discussion ensued regarding the new ASHA Quadrilateral Agreement, which allows individuals from Australia, the United Kingdom, and Canada who hold certification as speech-language pathologists in one of the listed countries, to be eligible for the Certificate of Clinical

Competence (CCC), as issued by the American Speech-Language-Hearing Association (ASHA). She reported that there is concern that the agreement does not reflect true equivalency, as the standards of these countries may not be entirely identical to the CCC standards. She stated that the ASHA agreement is very clear that it does not qualify an individual for state licensure. Ms. O'Connor also reported on states that have merged the regulatory oversight of hearing aid dispensing with that of audiology and speech-language pathology, and stated that there were many reported challenges with such mergers. She also reported that some states have telepractice laws or regulations, and that the NCSB has developed sample provisions for use by states that do not currently have such provisions.

Ms. Del Mugnaio asked Mr. Ritter which boards within the department have telepractice regulations and whether there are general Business and Professions statutes that apply to all boards under the department.

Mr. Ritter agreed to research the telepractice laws in California and provide the information to the Board at the next scheduled Board meeting.

## **VII. Speech-Language Practice Committee Report (Lisa O'Connor)**

Ms. O'Connor provided an overview of the matters discussed during the Committee meeting and reviewed the recommended motions:

- The Committee voted to recommend to the Board that Mr. Ritter research the legal provisions necessary for the Board to prohibit an individual from holding both an independent license and a paraprofessional license and, further, to develop draft language to provide the Board with such authority.
- The Committee voted to recommend to the Board that Ms. O'Connor and Ms. Murphy gather information regarding the curriculum of the educational therapy certificate programs and present such information at the next scheduled Speech-Language Pathology Practice Committee meeting.

M/S/C: Raggio/Murphy

The Board voted to accept the report and recommendations of the Speech-Language Pathology Committee.

## **THE BOARD CONVENED IN CLOSED SESSION TO COMPLETE THE REMAINING ITEMS UNDER THE CLOSED SESSION**

### **V. Closed Session (pursuant to Government Code Subsections 11126 (a)(1) (c)(3) Proposed Decisions/Stipulations/ Other APA Enforcement Actions**

#### **B. Evaluation of the Executive Officer**

## **THE BOARD RECONVENED IN OPEN SESSION**

The Board adjourned for the day at 6:00 p.m.

**9:00 a.m. – October 28, 2005**

### **Speech-Language Pathology and Audiology Full Board Meeting**

The Board reconvened at 9:17 a.m.

#### **VIII. Executive Officer's Report (Annemarie Del Mugnaio)**

##### **A. Staffing Update**

Ms. Del Mugnaio announced the recruitment of Ms. Lisa Bixler, who was hired to serve as the Board's administrative clerk, and who started in the position on September 26, 2005.

##### **B. Budget Update**

Ms. Del Mugnaio provided the Board with a current budget projection. She reported that the budget change proposal, which will augment the Board's budget by \$18,000 and restore the full-time funding for the associate governmental program analyst position as of July 1, 2006, was approved by the Department of Finance.

Ms. O'Connor inquired as to the reason the enforcement budget was depleted in the prior budget year and whether funding can be redirected from other program areas.

Ms. Del Mugnaio explained that the Board processed more administrative disciplinary cases during the last fiscal year than in prior years. She stated that, although many of the cases are settled through stipulated agreements as opposed to proceeding to administrative hearings, the investigative and attorney costs are substantial.

##### **C. Website Update**

Ms. Del Mugnaio reported that several updates have been made to the Board's website, including new postings about the speech-language pathology assistant bachelor degree provisions, a practice issues paper regarding speech-language pathology assistants performing routine feeding activities, new legislative and regulatory proposal postings, and an updated list and links to recommended speech-language pathology and audiology websites.

##### **D. Annual Report Preparation**

Ms. Del Mugnaio provided the Board with a summary of the Board's 2004-2005 annual report statistics and introductory summary for review.

#### **E. Office Relocation Plans**

Ms. Del Mugnaio reported that the building lease for the office space at the Howe Avenue complex will expire in February 2006 and that the Board, along with the other boards in complex, will be relocated. She reported that the Department of Consumer Affairs and the Department of General Services are working to secure another facility for the affected agencies.

#### **F. California Academy of Audiology Conference 2005, September 15-17- Anaheim, CA**

Ms. Del Mugnaio stated that she provided an update on Board activity at the California Academy of Audiology Conference. She reported on the status of the Board's proposed regulations, enforcement and licensing statistics, audiology practice issues to be addressed in the 2006 Sunset Review Report, and complaint and enforcement trends for the past year.

#### **G. Status of Rulemaking File - Information Disclosure Regulations (California Code of Regulations Sections 1399.180 – 1399.187) & Citation and Fine Regulations (California Code of Regulations Section 1399.159, 1399.159.01, 1399.159.1 & 1399.159.4)**

Ms. Del Mugnaio stated that both the citation and fine regulatory proposal and the information disclosure regulation package were adopted by the Board at the August 18, 2005 meeting. She stated that both of the final regulation packages have been submitted to the Department of Consumer Affairs for review, and should be filed with the Office of Administrative Law by late December.

#### **IX. Review Modified Text of Proposed Regulations Regarding Board-Approved Institutions and Advertising of Professional Degrees (California Code of Regulations Sections 1399.152 & 1399.156.4)**

Ms. Del Mugnaio reported that the Board only received one public comment on the modified text as noticed between the period of September 14, 2005 through September 30, 2005. She stated that, in addition to mailing the notice of the 15-day changes, the Board also notified the public that a new document was being added to the rulemaking file. She explained that the public notice was required because the document contained information the Board relied upon in drafting the regulation proposal and, therefore, is subject to public inspection. She identified the document as the "Table of AuD Program Components," modified September 8, 2005.

The Board proceeded to discuss the public suggestion and agreed to incorporate such into the modified language. The proposed change would authorize the Board to acknowledge a doctor of audiology program that holds candidacy accreditation status awarded by a valid accrediting organization, as defined in the regulation proposal.

The Board also discussed a public comment received during the initial notice period and decided to reverse its prior decision to reject the suggestion. The suggested change would add a qualifier to the existing text and would state that training program accreditation status should be based on the program status at the time an applicant graduated from the program. The Board determined that, while this is an implied standard, it should be provided for in the regulation text to avoid any future misinterpretation or confusion.

M/S/C: Hancock/Grimes

The Board voted to modify the regulation text as discussed and directed Ms. Del Mugnaio to notice the second modified text to the public for comment. Further, the Board voted to adopt the modified text as the final Order of Adoption, pending any further comments received during second modified text public notice period, and to submit the final rulemaking file to the Office of Administrative Law for review.

Mr. Powell stated that it was his understanding that California State University Sacramento (CSUS) did not currently hold accreditation status, but rather was issued a provisional status by the Council of Academic Accreditation (CAA). He inquired whether that may present a problem for graduates of CSUS in obtaining state licensure.

Ms. Del Mugnaio stated that she understood that CSUS was accredited but was placed on probation during the last site review. She indicated that she would confirm the status of CSUS with the CAA.

#### **A. Report from the California Council of Academic Programs in Communication Sciences and Disorders Meeting- October 14, 2005**

Ms. Del Mugnaio stated that she attended the meeting and reported on the status of the proposed regulations to amend the Board's program accreditation standards for speech-language pathology and audiology training programs. She stated that the group discussed several accreditation issues pertaining to national accreditation and accreditation from the California Commission on Teacher Credentialing.

Ms. Raggio stated that, at this meeting, she and Ms. Del Mugnaio learned that California State University, Los Angeles (CSULA) may be retaining its Master's Degree program in audiology after the termination of the program's accreditation in December 2006. She inquired whether the Board would grant a license to graduates of an unaccredited audiology training program. She explained that the American Speech-Language-Hearing Association's (ASHA) Council of Academic Accreditation (CAA) has stated that an individual graduating from a previously accredited Master's Degree audiology program would be eligible for the Certificate of Clinical Competence (CCC) if the program offered the equivalent course of study to that of an accredited audiology doctoral degree.

Ms. Del Mugnaio explained that the Board has the regulatory authority to approve unaccredited programs on a case-by-case basis, examining each program, not each applicant.

Ms. Ritter explained that, if the Board deems unaccredited programs as unacceptable training facilities, then the Board must pursue a regulation change to implement such a broad determination.

Ms. Grimes expressed her concern with endorsing the merits of an unaccredited program and stated that she is concerned for the academic welfare of students who enroll in a program that is not recognized by national or regional accreditation.

Mr. Powell recommended inviting representatives from CSULA to meet with the Board to discuss the vocalized concerns regarding the retention of an unaccredited Master's Degree program.

Ms. O'Connor suggested that the Board first write a letter to the institution to learn whether this is, in fact, the institution's intention for its audiology program.

M/S/C: Grimes/Raggio

The Board voted to direct Ms. Del Mugnaio to write a letter of inquiry to the Dean of the California State University, Los Angeles to determine whether the institution intends to continue its Master's Degree training program in audiology, and to express its concern regarding the retention of an unaccredited professional training program.

## **B. Preparation of Final Statement of Reasons**

The Board reviewed the draft final statement of reasons and requested that Ms. Del Mugnaio update the document based on the adopted changes to the regulation text.

M/S/C: Hancock/Grimes

The Board voted to adopt the Final Statement of Reasons for the Board-Approved Institutions and Advertising regulations (CCR Section 1399.152 & 1399.156.4) as amended, pending no further public comments or modifications to the adopted language.

## **X. Legislation**

### **A. SB 724 Scott – California State University Doctoral Degrees**

Ms. Del Mugnaio reported that she continued to track the status of SB 724, even though the provisions regarding audiology training were amended out of the bill in early summer 2005. She reported that the Governor signed the bill into law on September 22, 2005. She stated that the bill does set a precedent regarding the future training responsibilities of the two higher education systems, as it authorized the CSU to award doctoral degrees in education (the EDD).

Ms. Del Mugnaio reported the Ms. Raggio and Ms. Grimes attended a meeting of the California State University (CSU) and the University of California (UC) on October 20, 2005 in San Francisco to discuss the future program planning for joint doctoral training in audiology. Ms. Del Mugnaio stated that Ms. Grimes provided the opening statements for

the Board and explained the transition that has occurred in the profession of audiology resulting in the need for advanced training in audiology. Ms. Del Mugnaio explained that she participated in the afternoon portion of the meeting via telephone and provided licensing statistics in terms of new graduates, attrition and relocation numbers, and existing workforce needs. Ms. Del Mugnaio explained that she also discussed issues surrounding the profession's transition to doctoral education and the impact it has had on the Board's regulatory oversight. She added that she informed the group that the Board has processed enforcement cases that would support the advanced degree training in that the cases involve audiologists who are not well versed in specific areas of practice and have not had adequate training to serve the select populations.

Ms. Raggio stated that representatives from both the CSU and UC touched on their individual priorities in terms of the number of programs that should be developed, the location of joint programs, possible program models and infrastructure, and the necessary critical mass resources. However, she commented that no definite decisions were made, including the timing for the first phase of development.

Ms. Grimes stated that she believes it is critically important that the clinical training component of the audiology doctoral program be provided by a partnering UC medical facility.

Ms. Del Mugnaio stated that representatives of the UC had indicated that a follow-up meeting between the CSU and UC was to occur shortly after the October 20, 2005 meeting, wherein the two systems could hopefully come to an agreement on the plans for future training program development.

The Board discussed at length the critical mass issues that must be considered in developing a quality audiology doctoral training program, and directed Ms. Del Mugnaio to track the progress of the discussions between the CSU and UC.

## **B. SB 232- Sunset Extension**

Ms. Del Mugnaio reported that the Board's sunset extension bill was signed by the Governor on October 7, 2005 and will extend the Board's inoperative and repeal dates to July 1, 2008 and January 1, 2009, respectively.

## **C. AB 436 Plescia – Communication Devices**

Ms. Del Mugnaio stated that the bill previously addressed Medi-Cal reimbursement rates for augmentative and alternative communication or speech generating devices, but was amended on August 31, 2005 and no longer pertained to communication devices. She stated that the current version of the bill pertains to special primary elections.

Mr. Powell stated that the language regarding the communication device reimbursement rates was no longer necessary as the Department of Health Services agreed to establish new Medi-Cal billing rates, which can be found on the Medi-Cal website at [www.medi-cal.ca.gov](http://www.medi-cal.ca.gov).



## **XI. Discuss Preparation of Sunset Review Report and Timeline for Final Report Preparation**

Ms. Del Mugnaio distributed the most recent draft of the sunset report and stated that both Ms. O'Connor and Ms. Hancock had contributed new information to both Part I and Part II of the document. She stated that staff had completed the licensing and enforcement statistics for the sunset report up through the 2004/2005 fiscal year and that these statistics were represented in the most recent draft. She explained that, since SB 232 was signed by the Governor extending the Board's sunset dates another year, an additional year of statistics will be added to the report in summer of 2006 reflecting the 2005/2006 statistical data. In addition Ms. Del Mugnaio requested that the Board identify the core issues that should be reported in Part II of the sunset report under "Current Issues Raised by the Board," and also identify the appropriate actions to address the issues raised.

The Board held a deliberate discussion on several key issues that may be appropriately addressed in the sunset review report under current issues, and identified the following key issues: misdiagnosis and inappropriate treatment of Auditory Processing Disorders, the need for separate certification standards for audiologists serving the pediatric population, the treatment of language disorders in school-aged children and the present overlap in professional responsibility, exploring merging the credentialing and licensing standards into one uniform licensing standard that would eliminate exempt settings, and assessing the need for developing a state licensing examination for audiology.

Ms. Del Mugnaio stated that the scope of practice issues identified may require the Board to propose a legislative scope of practice revision to the Committee on Boards, Commissions, and Consumer Protection, in which case the Board should be prepared to propose suggested legislative amendments. She explained that other issues, such as developing a new state licensing examination for the profession of audiology, may be presented as a question or option for consideration with background on why the issue is being raised.

Ms. O'Connor inquired about the prior discussions surrounding the need for a state licensing examination for audiology licensure in California. She stated that she would be concerned about adding another layer to the already cumbersome process students must submit themselves to upon graduation, given the number of separate processes that exist for new professionals to be licensed, nationally certified, and sometimes credentialed.

Ms. Del Mugnaio reported that during the SB 724 discussions surrounding the profession of audiology, legislative staff expressed concern regarding the Board's current licensing program, stating that it appears California licensing standards are directed by the changes in the national certification standards and that seeding to a national organization as the standard-setting body for the professions of speech-language pathology and audiology diminishes the state's regulatory autonomy. Ms. Del Mugnaio explained that the legislative staff's comments were made after learning that one professional organization is directly linked to both the accreditation of the professional training programs and the national examination recognized in California for state licensure. She also commented that the national examination has not yet been amended to reflect the new doctoral degree standards for audiology, and there has been no communication from the national body as to when the examination will be revised.

The Board proceeded to discuss the national examination development process. As there were some outstanding questions as to which organizations directed examination development activity, Ms. Del Mugnaio agreed to follow up with both the Educational Testing Service (the organization that administers the national examination in speech-language pathology and audiology) and the American Speech-Language-Hearing Association regarding the process.

Mr. Powell commented that the Board may wish to address whether the credentialing of audiology training programs by the Commission on Teacher Credentialing should be discontinued given that most audiologists working in the school districts are licensed audiologists working as contractors and no longer hold credentials.

Ms. Del Mugnaio requested that Mr. Powell forward further information to the Board regarding his comment.

Ms. Gayle E. Hicks requested to address the Board regarding the issue of intraoperative monitoring and the audiologist's role in performing this function. She commented that audiologists are among the few professionals who have an educational background in electrophysiology and evoked potentials. Ms. Hicks stated that she believes that audiologists have some of the required training and that, with the new AuD training model, an intraoperative monitoring certification for audiologists would be a logical career path with greater options for income earnings. Ms. Hicks commented that there is a tremendous need for qualified individuals to serve as intraoperative monitors and that currently there are no training programs, state certification standards, or oversight of personnel involved in intraoperative monitoring, and that the potential for patient harm is of concern. She stated that she was instrumental in developing intraoperative standards for Mercy Hospital. Ms. Hicks stated that Medicare does not reimburse for intraoperative monitoring services because California does not recognize the personnel providing the service as certified or licensed. She commented that Medi-Cal will reimburse audiologists for somatosensory evoked potentials.

Ms. Bingea inquired whether Ms. Hicks is suggesting that only audiologists should be certified to perform intraoperative monitoring.

Ms. Hicks stated that she is not suggesting excluding other professionals interested in pursuing the field of intraoperative monitoring. Rather, she is interested in the development of intraoperative monitoring standards, possibly in the form of a state certification standard, and possibly an expansion of the scope of practice of audiology.

Ms. Del Mugnaio explained that if the scope of practice of audiology were amended to include intraoperative monitoring, it would potentially exclude anyone who is not a licensed audiologist from performing the services. She stated that, because intraoperative monitors are not licensed or certified in the state, it is not a "protected" service and, as such, may be performed by any competent professional. However, once the service is defined under a licensed profession, it becomes a "protected" or regulated professional service under that license. Ms. Del Mugnaio suggested that Ms. Hicks contact her after the meeting to discuss the process for proposing a new licensing category and regulatory program before the Legislature. She stated that she can provide Ms. Hicks with the appropriate "sunrise"

documentation and legislative contact information. Ms. Del Mugnaio suggested that Ms. Hicks may want to contact the California Medical Board for guidance on pursuing intraoperative monitoring certification standards.

Mr. Powell suggested that medical facility standards are provided for in the Health and Safety Codes, provided that the services are isolated to a hospital setting.

Ms. Hicks stated that there are national associations for intraoperative monitoring: the American Society of Neurophysiological Monitoring and the American Board of Neurophysiological Monitoring.

Ms. Del Mugnaio stated that she will work on Part II of the sunset report and include an outline of the new issues to be addressed, and will email the document to the Board members for further input. She requested that the Board members' input be submitted by December 12, 2005.

## **XII. Enforcement/Licensing Statistical Reports (Candace Raney/Lori Pinson)**

The Board reviewed the enforcement and licensing statistics as provided by Ms. Raney and Ms. Pinson, respectively.

## **XIII. Legal Analysis Regarding Nonpublic Nonsectarian Schools or Agencies Permitted to Utilize Credentialed Speech-Language Pathologists and Audiologists (George Ritter)**

Mr. Ritter provided an additional reference document to his previous legal opinion regarding nonpublic nonsectarian schools or agencies utilizing credentialed speech-language pathologists and audiologists.

Ms. Murphy inquired about whether the nonpublic nonsectarian schools must be certified to provide special education and related services in order to utilize credentialed personnel.

Mr. Ritter stated that, according to the Education Code provisions Section 56035, the agency/school must hold the certification with the Department of Education in order to use the credentialed speech-language pathologists or audiologists. He suggested that further clarification be sought from the Department of Education.

Ms. Murphy commented that some of the confusion stems from the changes in the Individuals with Disabilities Education Act (IDEA) and the provisions of No Child Left Behind (NCLB).

The Board held a discussion about the provisions of IDEA and NCLB, and it was evident that additional research should be conducted to better understand the implication of the Federal mandates.

Ms. Fagan stated that the ASHA website posts updated information about the IDEA and NCLB provisions and presented a teleseminar on the differences between IDEA and NCLB.

#### **XIV. Public Comment on Items Not on the Agenda**

There were no further comments from the public.

#### **XV. Future Meeting Dates**

The Board scheduled future meeting dates for January 26-27, 2006 in San Francisco and April 20-21, 2006 in Los Angeles. The Board also set a Continuing Professional Development Task Force Meeting tentatively for December 10, 2005, to be held in San Francisco.

#### **XVI. Adjournment**

There being no further discussion, Chairperson O'Connor adjourned the meeting at 1:55 p.m.